MASTER AND SERVANT—RELATION OF EMPLOYER AND EMPLOYEE.—Defendant was the owner of an office building and operated an elevator for the benefit of the occupants and the public generally. Plaintiff's intestate, a stenographer in the employ of the defendant company, whose offices were on the fourth floor, was killed while riding to work on the elevator, through the negligence of the operator. *Held,* that plaintiff's intestate was a passenger at the time of the accident and the defendant owed her the same duty as a stranger rightfully using the elevator. *Putnam* v. *Pacific Monthly Co.* (Ore. 1913), 136 Pac. 835.

The precise question as to the relation existing between an elevator owner and an office employee, invited to ride to work, has been of infrequent occurrence. In *McDonough* v. *Lanpher,* 55 Minn. 501, it was held that employees permitted to ride in their employer's elevator to and from their places of work are still employees while so riding, and not passengers. See note to *McDonough* v. *Lanpher* in 43 Am. St. Rep. 541; *Wise* v. *Ackerman,* 76 Md. 375; *Gilshannon* v. *Stony Brook R. R. Co.,* 10 Cush. 228; *Russell* v. *Hudson River R. R. Co.,* 17 N. Y. 134; *Walsh* v. *Cullen,* 235 Ill. 91. The principal case seems to be supported, in theory at least, by *Thompson* v. *Northern Hotel Co.,* 256 Ill. 77 (which ignores the reasoning of the same court in *Walsh* v. *Cullen,* supra.); *Gillenwater* v. *Madison etc. R. R. Co.,* 5 Ind. 339; *State* v. *Western Md. R. R. Co.,* 63 Md. 433. The prevailing opinion apparently was based on the fact that the plaintiff was riding on the elevator before the time set for the commencement of her daily work. This distinction was vigorously assailed in a dissenting opinion, in which two of the judges concurred, and which seems to be the result of more logical reasoning.

PUBLIC OFFICERS—REMOVAL FOR MISCONDUCT OCCURRING PRIOR TO RESIGNATION AND RE-ELECTION.—When proceedings were about to be commenced for the removal of a mayor for alleged intoxication he immediately resigned, whereupon the city council re-elected him to fill the vacancy so caused. After he had been duly installed under the new election, an action was begun to oust him on account of the misconduct occurring prior to his resignation. *Held,* such resignation and re-election were no defence to the subsequent proceedings. *State ex rel. Cosson* v. *Baughn* (Iowa 1913), 143 N. W. 1100.

Search has failed to disclose very many cases upon this particular situation, and such authorities as are to be found are in hopeless conflict. It is believed, however, that the tendency of the courts in the later cases is in accord with the principal case. In *People* v. *Ahearn,* 196 N. Y. 221, 26 L. R. A. (N. S.) 1153, it was held by a divided court that one removed from a municipal office under statutory authority, for misconduct, is not eligible for re-election for the remainder of the term. See to the same point *State* v. *Dart,* 57 Minn. 261, wherein it is said that "Such removal proceedings are not merely for the purpose of ousting the person holding the office; they include a charge that he has forfeited his qualifications for the office for the remainder of the term." In *State of Kansas* v. *Rose,* 74 Kans. 260, 6 L. R. A. (N. S.) 843 the same rule was applied, although the re-election was made by the electors of the city themselves, at a special election. Some courts

have gone so far as to hold that misconduct during a preceding term is ground for removal. *State* v. *Welsh,* 109 Iowa 19; *State* v. *Burgeois,* 45 La. Ann. 1350; *Tibbs* v. *City of Atlanta,* 125 Ga. 18. To the contrary are *Thurston* v. *Clark,* 107 Cal. 285; *Shulz* v. *Patton,* 131 Mo. App. 628; *People* v. *Weygart,* 14 Hun. (N. Y.) 546; *State* v. *Watertown,* 9 Wis. 254. The first case directly in point with the instant case was that of *State* v. *Common Council of Jersey City,* 25 N. J. L. 536 wherein the opposite doctrine was announced. In that case a member of the council was expelled for receiving bribes and was re-elected to fill the unexpired term. The court in its opinion said "When the council expelled him they had exhausted their power. . . . When the law annexes a disqualification to an office, it does so in express terms. The council have no power to expel a member for acts committed prior to his election." To the same general effect see *Sped* v. *Detroit,* 98 Mich., 360; *Advisory Opinion of The Florida Supreme Court,* 31 Fla. 1, 18 L. R. A. 594. It is submitted that the view taken by the New Jersey court is technically correct for the reason that the contrary holding is in effect adding a qualification for the particular office in question which is not provided for by statute. While on principle there is no doubt this qualification should be added, yet the remedy lies with the legislature; judicial legislation is always to be deprecated.

SALES—CONVERSION—WHAT CONSTITUTES.—Plaintiff delivered furniture to X, a dealer, not to be put in his place of business, but to be placed in a storage warehouse; X wrongfully placed the furniture in his place of business and sold it to the defendant, an innocent purchaser. *Held,* defendant was guilty of conversion of property in reselling it after notice of plaintiff's rights. *Davis* v. *Miller's Auction Rooms Inc.,* 144 N. Y. S. 672.

It should be noted that the dealer was engaged solely in the retail furniture business and that no facts existed which would put defendant on inquiry or arouse his suspicion as to whether the dealer had title or not, yet he was held guilty of conversion. Although this is an extreme case from the standpoint of the innocent purchaser, nevertheless it is founded on well settled and sound principles of law and justice. *Saltus* v. *Everett,* 20 Wend. (N. Y.) 267, 32 Am. Dec. 541. Mere possession of chattels *by whatever means* acquired, if there be no other evidence or authority to sell, from the true owner, will not enable the possessor to give good title. *McNeil* v. *Tenth National Bank,* 46 N. Y. 325; *Cundy* v. *Lindsey,* 3 App. Cas. 459; *Wood* v. *Nicols,* 21 R. I. 537; *Leigh* v. *Mobile & Ohio Ry.* Co., 58 Ala. 165; *Baker* v. *Taylor,* 54 Minn. 71. The defendant contended that plaintiff gave possession of the furniture to a dealer, with apparent right to sell, and that therefore the dealer could give good title to an innocent purchaser. But *bare possession* of goods, by one even though he may happen to be a *dealer* in that class of goods, does not clothe him with power to dispose of the goods as though he were owner, or as having authority as agent to sell or pledge the goods, to the preclusion of the rights of the real owner. *Levi* v. *Booth,* 58 Md. 305. It might be argued that the dealer has more than mere possession and that he has the indicia of title. This however is not sufficient. That indicia of